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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/813,054

03/31/2004

Yoshitaka Fukushima

F05-169600M/KQK

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21254

7590

06/17/2008

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC

8321 OLD COURTHOUSE ROAD

SUITE 200

VIENNA, VA 22182-3817

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

06/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,054

Applicant(s)

FUKUSHIMA ET AL.

Examiner

/Stephen J. Castellano/

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 6, 8, 17-23 and 25-30 is/are pending in the application.
4a) Of the above claim(s) 25 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 2, 6, 8, 17-23 and 26-30 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date 4-7-8
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

Claims 1, 3-5, 7, 9-16 and 24 have been canceled. Claims 2, 6, 8, 17-23 and 25-30 are pending.

Claim 25 stands withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 7, 2008.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 17-20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischerkeller et al. (6371153) (Fischerkeller) in view of Danna.

Fischerkeller discloses a fuel tank structure of a saddle type tank including a lower member including a plurality of bottom portions (two, one on left side and one on right side) that are spaced from each other by a gap, the bottom portions including a single bottom portion (either the right or left bottom wall) constituting the lowest position in the lower member, and a display portion (the outside surface of the left bottom wall) of a working position for locating a waste fuel hole, this lowest position is where the fuel will remain as the level of fuel draws down. Each bottom portion has a chamber module. Each chamber module includes a fuel pump (50, 54). Fischerkeller discloses the invention except for the bead portion. Danna teaches a bead portion below a chamber module. It would have been obvious to add two bead portions, one to each side, as a means to align and properly secure chamber modules within a tank as taught by Danna.

Claims 6, 8, 21-23 and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischerkeller in view of Danna as applied to claims 2, 8, 19 and 26 above, and further in view of Bailey (EP 0203711) (Bailey).

The Fischerkeller-Danna combination disclose the invention except for the bead portions being a plurality or a series and being non-continuous and the cut portions between the individual bead portions. Bailey teaches bead portions (ridges 21a, 21b), each bead portion extending upwardly into the fuel tank from the plane of the bottom wall, the two ridges are substantially C-shaped and oppose each other, the bead portions are separated by cut portions (channels 25a, 25b) as shown in Fig. 1-5. Each cut portion directly connects an inside of an area (enclosed portion 24 of the bottom wall) surrounded by the bead portions and an outside of the area. It would have been obvious to replace the single circular bead portion of Danna with the two C-shaped beads of Bailey to provide channels to allow fuel to flow into a central reservoir in the fuel tank bottom area so that the supply of fuel available for a fuel pump is not interrupted even when the fuel level in the tank is low.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Castellano/
Primary Examiner
Art Unit 3781

sjc